UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

BKY No. 10-44311

In re:

Kirby W. Binder,

Debtor.

TRUSTEE'S MEMORANDUM IN REPLY TO DEBTOR'S OPPOSITION TO EXEMPTION OBJECTION

The debtor has filed a response to the trustee's objection to his claimed exemptions of concealed cash and unscheduled tax refunds. Mr. Binder essentially claims that he was fully and completely honest, did not engage in any dishonest activity, and did not act in bad faith with respect to his disclosures and amended exemptions. As the Court will see, Binder's argument lacks merit.

ARGUMENT

Debtor's repeated perjury regarding cash.

Just four days before filing his bankruptcy, the debtor withdrew $6,000 in cash from his bank account. His schedules, however, disclosed no cash. Six months after his original perjured filing, the debtor now admits to this court, both through the filing of a second amended Schedule C, and through his representations to the court, that on June 7, 2010 the day his bankruptcy case was filed, he had in his possession $3,425 in cash.[1]

According to Binder's answers to the U.S. Trustee's interrogatories, in ADV Pro #10-4216, Binder had at least $2,000 of that cash in his possession as late as September 20, 2010.

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[1] Binder, however, has presented no documentary evidence that he disposed of any of the $6,000 prior to filing.

Binder Aff. Ex. G. Binder now represents to this court that about one week after he was sued by the United States Trustee for denial of discharge based, in part, upon his inability to account for his purported use of cash, the remaining $2,000 in concealed cash was stolen from his home. Binder Aff. Ex. G.

Thus, according to Binder, despite what had occurred in his Chapter 7 with the trustee, he had kept the concealed cash in his possession from the commencement of his bankruptcy case, apparently spending more cash along the way.

As dishonest debtors often do, Binder attempts to blame his prior attorney for Binder's own dishonesty. The instances of Binder's perjury are numerous. A review of the schedules, signed by Binder under penalty of perjury, and his sworn testimony at the §341 meetings, reveals at least the following instances of perjury by Binder:

1. Original Schedule B.

Original Schedule B states that he had no cash in his possession on the date of filing. He now admits he had $3,425 in cash on the date of filing.

2. First §341 Meeting.

a. At the §341 meeting, while under oath, he testified that he had read the schedule before he signed them, was personally familiar with the information, and that it was all true and correct. That testimony was false.

b. He testified that there were no errors or omissions in his schedules. That testimony was false.

c. He testified that he listed all of his assets in the schedules. That testimony was false.

See Binder Exhibit K.

None of this testimony was given by Binder's former attorney. All of the testimony was Binder's, and all of it was false.

3. Amended Schedule B.

On August 11, 2010, prior to the trustee discovering the debtor's hidden cash, the debtor reviewed and signed, under penalty of perjury, an Amended Schedule B which was filed with the court. That Amended Schedule B again represented to the court that the debtor had no cash on the day of filing. Seaver Aff. Ex. 2.

4. Second §341 Meeting.

On August 13, 2010, the continued meeting of creditors was held. One of the reasons the continued meeting was held was because the trustee had demanded that the debtor produce actual bank statements, not merely a letter showing the balance on the day of filing. Had the trustee not requested such a document, Binder's repeated perjury regarding $6,000 in concealed cash would have gone undetected.

Prior to the continued §341 meeting, Binder apparently came up with a plan to further attempt to mislead the trustee by testifying that he had spent the entire $6,000 prior to filing bankruptcy. Binder's false testimony scheme failed miserably at the continued §341 meeting. At that meeting, Binder offered repeated perjured testimony. A transcript of that testimony is attached as Exhibit J to "Debtor's Memorandum."[2] During his testimony,

[2]Apparently Binder had the §341 audio recordings transcribed. The headings of those transcriptions contain numerous errors. The testimony of Binder was taken not in an adversary proceeding, but in the main case. Colin Kreuziger from the U.S. Trustee's office was not present at the §341 meetings. The §341 meetings did not take place in Courtroom No. 7 West, but rather in bankruptcy hearing room on the 10th Floor of the Federal Courthouse.

Binder testified, at different times, as follows:

a. At pages 4-5, he stated that, as to cash on hand on the day of filing, he couldn't even:

> . . . imagine it was even close to half that amount by the time I got done paying the people that I had paid. I don't really know."

Binder second meeting testimony, page 5.

b. Later in that testimony, Binder testified that it was not accurate to say that he had at least $3,000 in cash on the day of filing. His testimony, when asked that question, was as follows:

> No, that's not true. I don't believe I had anything left over because of the fact that it states right here on my check that I withdrew the money, right here. And it says for moving expenses – moving, cash and home foreclosure. Because of the time Bank of America and Country Wide defrauded me for over two years –

Binder second meeting of testimony, pages 11 and 12.

c. Later, Binder testified as follows:

Q So how much cash did you have when you filed bankruptcy?
A I have no idea, sir.
Q Was it more than $2,000?
A Cash in my pocket?
Q Right.
A I don't believe so.
Q The $6,000 that you took out?
A I don't believe so. I don't know. I have no idea, sir. I can't answer the question.

Binder second meeting of testimony, page 14.

As the court will see from a review of that testimony, it is contradictory, evasive and false. The only reason this court knows of the existence of any cash is because of the trustee's diligence in this case.

5. Binder's new story.

Apparently, at least according to the debtor's interrogatory testimony, he still had at least $2,000 of the concealed $6,000 in his possession as late as September, 2010 when, supposedly, that money was stolen from his home. Coincidentally, the "theft" occurred shortly after Binder was sued by the U.S. Trustee seeking denial of his discharge. See Adv Pro #10-4216. The purported theft was not reported to the Minnetonka Police Department until many days after it supposedly occurred. See Binder Exhibit H.

Binder also has a problem keeping his story straight, as dishonest people often do. For instance, at page 2 of Binder's answers to interrogatories, he states, under oath, that "between July 3 and July 7 he hired three laborers from outside Home Depot to perform general maintenance around the home." The debtor filed his bankruptcy case on June 7, 2010. So what he did in July is not relevant. His sworn testimony and his answers to interrogatories establish that he did not spend that concealed $6,000 until sometime in July, long after his bankruptcy filing. It is also telling to note that Binder does not have a single receipt from anywhere that would purport to substantiate his expenditure of any of the concealed $6,000 in cash.

6. Conclusion as to Cash.

Binder had $6,000 in cash at the time of filing and concealed that asset from the trustee. He concealed it in his original Schedule B. He concealed it at the original §341 meeting. He concealed it in his amended Schedule B. The trustee learned of the existence of the cash only as a result of requiring the production of bank statements. Binder lied repeatedly and has testified in a contradictory manner about what happened to the cash. His claimed amended exemption of $3,425 of the cash should be denied.

7. Tax Refunds.

As is clear from the transcripts of the two §341 hearings, there would be no tax refunds had the trustee not required the debtor to file his returns. The debtor had not filed tax returns for years, and, insisted that he did not have to file tax returns. It was only because the trustee required him to do so that the tax returns were filed, generating the refunds at issue. Of course, the only reason those refund rights are now disclosed is because of the trustee's requirement that the debtor file those returns. His claimed exemptions of those "newly discovered" refunds should be denied.

a. 2009 refunds.

As to the 2009 refunds, the court has only to read the transcript from the first meeting of creditors to see that the trustee essentially had to force the debtor to file those returns, and the debtor vigorously asserted that, for some reason, he didn't have to file tax returns. Further, as to the 2009 refunds, the debtor, through his attorney, agreed to turn those refunds over to the bankruptcy estate. See Exhibit D to Affidavit of Kirby Binder. Certainly an asset which was never disclosed, and came to light only as a result of the trustee's actions cannot be subject to exemption.

b. Refunds for years prior to 2009.

Again, the only reason these returns were filed was because the trustee compelled the debtor to file them because the trustee believed the filing of those returns would generate assets for the estate. In the absence of the trustee compelling that activity, the debtor never would have filed the returns, and the refunds would not have been generated. Clearly these assets were never disclosed, and would never have been disclosed absent the trustee compelling the debtor to disclose them. His attempted exemption of those is in bad faith and should be denied.

CONCLUSION

For the reasons stated above, the debtor's amended exemptions should be denied.

FULLER, SEAVER & RAMETTE, P.A.

Dated: January _25_, 2011

By:_____/e/ Matthew D. Swanson ____
Randall L. Seaver 152882
Matthew D. Swanson 390271
12400 Portland Avenue South, Suite 132
Burnsville, MN 55337
(952) 890-0888; (952) 890-0244 (fax)

Attorneys for Randall L. Seaver, Trustee

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

BKY No. 10-44311

In re:

Kirby W. Binder,

AFFIDAVIT OF RANDALL L. SEAVER

Debtor.

STATE OF MINNESOTA)
)
COUNTY OF DAKOTA)

Randall L. Seaver, being first duly sworn, deposes and states as follows:

1. I am the trustee in the above matter and have personal knowledge of the facts contained herein.

2. Attached hereto as Exhibit 1 are true and correct copies of the original Schedules B and C of Kirby Binder.

3. Attached hereto as Exhibit 2 are true and correct copies of the Amended Schedules B and C of Kirby Binder.

FURTHER YOUR AFFIANT SAYETH NOT.

____
Randall L. Seaver

Subscribed and sworn to before me this 21 day of January, 2011.

KARI L. FOGARTY
Notary Public - Minnesota
My Commission Expires Jan. 31, 2015

____
Notary Public

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IN RE Binder, Kirby W — Debtor(s) — Case No. ______ (If known)

SCHEDULE B - PERSONAL PROPERTY

Except as directed below, list all personal property of the debtor of whatever kind. If the debtor has no property in one or more of the categories, place an "x" in the appropriate position in the column labeled "None." If additional space is needed in any category, attach a separate sheet properly identified with the case name, case number, and the number of the category. If the debtor is married, state whether the husband, wife, both, or the marital community own the property by placing an "H," "W," "J," or "C" in the column labeled "Husband, Wife, Joint, or Community." If the debtor is an individual or a joint petition is filed, state the amount of any exemptions claimed only in Schedule C - Property Claimed as Exempt.

Do not list interests in executory contracts and unexpired leases on this schedule. List them in Schedule G - Executory Contracts and Unexpired Leases.

If the property is being held for the debtor by someone else, state that person's name and address under "Description and Location of Property." If the property is being held for a minor child, simply state the child's initials and the name and address of the child's parent or guardian, such as "A.B., a minor child, by John Doe, guardian." Do not disclose the child's name. See, 11 U.S.C. §112 and Fed. R. Bankr. P. 1007(m).

TYPE OF PROPERTY	NONE	DESCRIPTION AND LOCATION OF PROPERTY	HUSBAND, WIFE, JOINT, OR COMMUNITY	CURRENT VALUE OF DEBTOR'S INTEREST IN PROPERTY WITHOUT DEDUCTING ANY SECURED CLAIM OR EXEMPTION
1. Cash on hand.	X			
2. Checking, savings or other financial accounts, certificates of deposit or shares in banks, savings and loan, thrift, building and loan, and homestead associations, or credit unions, brokerage houses, or cooperatives.		Private Bank of Minnesota Checking Account number ending in 4066		2,345.14
3. Security deposits with public utilities, telephone companies, landlords, and others.	X			
4. Household goods and furnishings, include audio, video, and computer equipment.		Household goods and furnishings		2,700.00
5. Books, pictures and other art objects, antiques, stamp, coin, record, tape, compact disc, and other collections or collectibles.	X			
6. Wearing apparel.		Wearing apparel		500.00
7. Furs and jewelry.	X			
8. Firearms and sports, photographic, and other hobby equipment.	X			
9. Interest in insurance policies. Name insurance company of each policy and itemize surrender or refund value of each.		Met Life Insurance		9,221.00
10. Annuities. Itemize and name each issue.	X			
11. Interests in an education IRA as defined in 26 U.S.C. § 530(b)(1) or under a qualified State tuition plan as defined in 26 U.S.C. § 529(b)(1). Give particulars. (File separately the record(s) of any such interest(s). 11 U.S.C. § 521(c).)		Roth IRA		140,000.00
12. Interests in IRA, ERISA, Keogh, or other pension or profit sharing plans. Give particulars.	X			
13. Stock and interests in incorporated and unincorporated businesses. Itemize.	X			
14. Interests in partnerships or joint ventures. Itemize.	X			

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EXHIBIT I

B6B (Official Form 6B) (12/07) - Cont.

IN RE Binder, Kirby W Case No. ____________
Debtor(s) (If known)

SCHEDULE B - PERSONAL PROPERTY
(Continuation Sheet)

TYPE OF PROPERTY	NONE	DESCRIPTION AND LOCATION OF PROPERTY	HUSBAND, WIFE, JOINT, OR COMMUNITY	CURRENT VALUE OF DEBTOR'S INTEREST IN PROPERTY WITHOUT DEDUCTING ANY SECURED CLAIM OR EXEMPTION
15. Government and corporate bonds and other negotiable and non-negotiable instruments.	X			
16. Accounts receivable.	X			
17. Alimony, maintenance, support, and property settlements in which the debtor is or may be entitled. Give particulars.	X			
18. Other liquidated debts owed to debtor including tax refunds. Give particulars.	X			
19. Equitable or future interest, life estates, and rights or powers exercisable for the benefit of the debtor other than those listed in Schedule A - Real Property.	X			
20. Contingent and noncontingent interests in estate of a decedent, death benefit plan, life insurance policy, or trust.	X			
21. Other contingent and unliquidated claims of every nature, including tax refunds, counterclaims of the debtor, and rights to setoff claims. Give estimated value of each.		Potential personal injury claim stemming from auto accident on 9/3/2005		10,000.00
22. Patents, copyrights, and other intellectual property. Give particulars.	X			
23. Licenses, franchises, and other general intangibles. Give particulars.	X			
24. Customer lists or other compilations containing personally identifiable information (as defined in 11 U.S.C. § 101(41A)) provided to the debtor by individuals in connection with obtaining a product or service from the debtor primarily for personal, family, or household purposes.	X			
25. Automobiles, trucks, trailers, and other vehicles and accessories.		1998 Ford Taurus		700.00
		2006 Cadillac DTS		3,000.00
26. Boats, motors, and accessories.	X			
27. Aircraft and accessories.	X			
28. Office equipment, furnishings, and supplies.	X			
29. Machinery, fixtures, equipment, and supplies used in business.	X			
30. Inventory.	X			
31. Animals.	X			
32. Crops - growing or harvested. Give particulars.	X			
33. Farming equipment and implements.	X			
34. Farm supplies, chemicals, and feed.	X			

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B6B (Official Form 6B) (12/07) - Cont.

IN RE Binder, Kirby W Case No. ____________
Debtor(s) (If known)

SCHEDULE B - PERSONAL PROPERTY
(Continuation Sheet)

TYPE OF PROPERTY	NONE	DESCRIPTION AND LOCATION OF PROPERTY	HUSBAND, WIFE, JOINT, OR COMMUNITY	CURRENT VALUE OF DEBTOR'S INTEREST IN PROPERTY WITHOUT DEDUCTING ANY SECURED CLAIM OR EXEMPTION
35. Other personal property of any kind not already listed. Itemize.	X			

TOTAL 168,466.14

(Include amounts from any continuation sheets attached. Report total also on Summary of Schedules.)

0 continuation sheets attached

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B6C (Official Form 6C) (04/10)

IN RE Binder, Kirby W Case No. ____________
Debtor(s) (If known)

SCHEDULE C - PROPERTY CLAIMED AS EXEMPT

Debtor elects the exemptions to which debtor is entitled under:
(Check one box)

☑ 11 U.S.C. § 522(b)(2)
☐ 11 U.S.C. § 522(b)(3)

☐ Check if debtor claims a homestead exemption that exceeds $146,450. *

DESCRIPTION OF PROPERTY	SPECIFY LAW PROVIDING EACH EXEMPTION	VALUE OF CLAIMED EXEMPTION	CURRENT VALUE OF PROPERTY WITHOUT DEDUCTING EXEMPTIONS
SCHEDULE B - PERSONAL PROPERTY			
Private Bank of Minnesota Checking Account number ending in 4066	**11 USC § 522(d)(5)**	**2,345.14**	**2,345.14**
Household goods and furnishings	**11 USC § 522(d)(3)**	**2,600.00**	**2,700.00**
Wearing apparel	**11 USC § 522(d)(3)**	**500.00**	**500.00**
Met Life Insurance	**11 USC § 522(d)(5)** **11 USC § 522(d)(5)**	**741.14** **8,479.86**	**9,221.00**
Roth IRA	**11 USC § 522(d)(12)**	**140,000.00**	**140,000.00**
Potential personal injury claim stemming from auto accident on 9/3/2005	**11 USC § 522(d)(11)(D)**	**10,000.00**	**10,000.00**
1998 Ford Taurus	**11 USC § 522(d)(2)**	**700.00**	**700.00**

** Amount subject to adjustment on 4/1/13 and every three years thereafter with respect to cases commenced on or after the date of adjustment.*

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IN RE Binder, Kirby W Case No. 10-44311
Debtor(s) (If known)

AMENDED SCHEDULE B - PERSONAL PROPERTY

Except as directed below, list all personal property of the debtor of whatever kind. If the debtor has no property in one or more of the categories, place an "x" in the appropriate position in the column labeled "None." If additional space is needed in any category, attach a separate sheet properly identified with the case name, case number, and the number of the category. If the debtor is married, state whether the husband, wife, both, or the marital community own the property by placing an "H," "W," "J," or "C" in the column labeled "Husband, Wife, Joint, or Community." If the debtor is an individual or a joint petition is filed, state the amount of any exemptions claimed only in Schedule C - Property Claimed as Exempt.

Do not list interests in executory contracts and unexpired leases on this schedule. List them in Schedule G - Executory Contracts and Unexpired Leases.

If the property is being held for the debtor by someone else, state that person's name and address under "Description and Location of Property." If the property is being held for a minor child, simply state the child's initials and the name and address of the child's parent or guardian, such as "A.B., a minor child, by John Doe, guardian." Do not disclose the child's name. See, 11 U.S.C. §112 and Fed. R. Bankr. P. 1007(m).

TYPE OF PROPERTY	NONE	DESCRIPTION AND LOCATION OF PROPERTY	HUSBAND, WIFE, JOINT, OR COMMUNITY	CURRENT VALUE OF DEBTOR'S INTEREST IN PROPERTY WITHOUT DEDUCTING ANY SECURED CLAIM OR EXEMPTION
1. Cash on hand.	X			
2. Checking, savings or other financial accounts, certificates of deposit or shares in banks, savings and loan, thrift, building and loan, and homestead associations, or credit unions, brokerage houses, or cooperatives.		Private Bank of Minnesota Checking Account number ending in 4066		2,345.14
3. Security deposits with public utilities, telephone companies, landlords, and others.	X			
4. Household goods and furnishings, include audio, video, and computer equipment.		Household goods and furnishings		1,600.00
5. Books, pictures and other art objects, antiques, stamp, coin, record, tape, compact disc, and other collections or collectibles.	X			
6. Wearing apparel.		Wearing apparel		500.00
7. Furs and jewelry.	X			
8. Firearms and sports, photographic, and other hobby equipment.	X			
9. Interest in insurance policies. Name insurance company of each policy and itemize surrender or refund value of each.		Met Life Insurance		9,221.00
10. Annuities. Itemize and name each issue.	X			
11. Interests in an education IRA as defined in 26 U.S.C. § 530(b)(1) or under a qualified State tuition plan as defined in 26 U.S.C. § 529(b)(1). Give particulars. (File separately the record(s) of any such interest(s). 11 U.S.C. § 521(c).)		Roth IRA		140,000.00
12. Interests in IRA, ERISA, Keogh, or other pension or profit sharing plans. Give particulars.	X			
13. Stock and interests in incorporated and unincorporated businesses. Itemize.	X			
14. Interests in partnerships or joint ventures. Itemize.	X			

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EXHIBIT 2

B6B (Official Form 6B) (12/07) - Cont.

IN RE Binder, Kirby W Case No. 10-44311
Debtor(s) (If known)

AMENDED SCHEDULE B - PERSONAL PROPERTY
(Continuation Sheet)

TYPE OF PROPERTY	NONE	DESCRIPTION AND LOCATION OF PROPERTY	HUSBAND, WIFE, JOINT, OR COMMUNITY	CURRENT VALUE OF DEBTOR'S INTEREST IN PROPERTY WITHOUT DEDUCTING ANY SECURED CLAIM OR EXEMPTION
15. Government and corporate bonds and other negotiable and non-negotiable instruments.	X			
16. Accounts receivable.	X			
17. Alimony, maintenance, support, and property settlements in which the debtor is or may be entitled. Give particulars.	X			
18. Other liquidated debts owed to debtor including tax refunds. Give particulars.	X			
19. Equitable or future interest, life estates, and rights or powers exercisable for the benefit of the debtor other than those listed in Schedule A - Real Property.	X			
20. Contingent and noncontingent interests in estate of a decedent, death benefit plan, life insurance policy, or trust.	X			
21. Other contingent and unliquidated claims of every nature, including tax refunds, counterclaims of the debtor, and rights to setoff claims. Give estimated value of each.		2009 Federal and State Tax Refund		1,879.00
		Potential personal injury claim stemming from auto accident on 9/3/2005		10,000.00
22. Patents, copyrights, and other intellectual property. Give particulars.	X			
23. Licenses, franchises, and other general intangibles. Give particulars.	X			
24. Customer lists or other compilations containing personally identifiable information (as defined in 11 U.S.C. § 101(41A)) provided to the debtor by individuals in connection with obtaining a product or service from the debtor primarily for personal, family, or household purposes.	X			
25. Automobiles, trucks, trailers, and other vehicles and accessories.		1998 Ford Taurus		700.00
		2006 Cadilac DTS		3,000.00
26. Boats, motors, and accessories.	X			
27. Aircraft and accessories.	X			
28. Office equipment, furnishings, and supplies.	X			

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IN RE Binder, Kirby W Case No. 10-44311

Debtor(s) (If known)

AMENDED SCHEDULE B - PERSONAL PROPERTY
(Continuation Sheet)

TYPE OF PROPERTY	NONE	DESCRIPTION AND LOCATION OF PROPERTY	HUSBAND, WIFE, JOINT, OR COMMUNITY	CURRENT VALUE OF DEBTOR'S INTEREST IN PROPERTY WITHOUT DEDUCTING ANY SECURED CLAIM OR EXEMPTION
29. Machinery, fixtures, equipment, and supplies used in business.		Audio Equipment Used in business Including: Cords & Adapters Microphones x 6 Equalizers x 3 Reverbs Pre-amps Zoom Recorder Cases		1,100.00
30. Inventory.	X			
31. Animals.	X			
32. Crops - growing or harvested. Give particulars.	X			
33. Farming equipment and implements.	X			
34. Farm supplies, chemicals, and feed.	X			
35. Other personal property of any kind not already listed. Itemize.	X			

TOTAL 170,345.14

(Include amounts from any continuation sheets attached. Report total also on Summary of Schedules.)

0 continuation sheets attached

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IN RE Binder, Kirby W Case No. 10-44311
Debtor(s) (If known)

AMENDED SCHEDULE C - PROPERTY CLAIMED AS EXEMPT

Debtor elects the exemptions to which debtor is entitled under:
(Check one box)
☑ 11 U.S.C. § 522(b)(2)
☐ 11 U.S.C. § 522(b)(3)

☐ Check if debtor claims a homestead exemption that exceeds $146,450. *

DESCRIPTION OF PROPERTY	SPECIFY LAW PROVIDING EACH EXEMPTION	VALUE OF CLAIMED EXEMPTION	CURRENT VALUE OF PROPERTY WITHOUT DEDUCTING EXEMPTIONS
SCHEDULE B - PERSONAL PROPERTY			
Private Bank of Minnesota Checking Account number ending in 4066	11 USC § 522(d)(5)	2,345.14	2,345.14
Household goods and furnishings	11 USC § 522(d)(3)	1,600.00	1,600.00
Wearing apparel	11 USC § 522(d)(3)	500.00	500.00
Met Life Insurance	11 USC § 522(d)(5) 11 USC § 522(d)(5)	741.14 8,479.86	9,221.00
Roth IRA	11 USC § 522(d)(12)	140,000.00	140,000.00
Potential personal injury claim stemming from auto accident on 9/3/2005	11 USC § 522(d)(11)(D)	10,000.00	10,000.00
1998 Ford Taurus	11 USC § 522(d)(2)	700.00	700.00
Audio Equipment Used in business	11 USC § 522(d)(6)	1,100.00	1,100.00
Including: Cords & Adapters Microphones x 6 Equalizers x 3 Reverbs Pre-amps Zoom Recorder Cases			

** Amount subject to adjustment on 4/1/13 and every three years thereafter with respect to cases commenced on or after the date of adjustment.*

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UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

BKY No. 10-44311

In re:

Kirby W. Binder,

Debtor.

UNSWORN DECLARATION FOR PROOF OF SERVICE

I hereby certify that on January 25, 2011, I caused the following documents:

- ***Trustee's Memorandum in Reply to Debtor's Opposition to Exemption Objection***
- ***Affidavit of Randall L. Seaver***
-

To be filed electronically with the Clerk of Court through ECF, and that ECF will send an e-notice of the electronic filing to the following:

- Russel A. Norum russellnorumlawo@qwestoffice.net
- Recovery Management Systems Corp claims@recoverycorp.com
- Randall L. Seaver rlseaver@fullerseaverramette.com
- Matthew D. Swanson mdswanson@fullerseaverramette.com
- U.S. Trustee ustpregion12.mn.ecf@usdoj.gov

I further certify that I caused a copy of the foregoing documents to be mailed by first class mail, postage paid, to the following:

Kirby W Binder
17700 Arrowhead Trail
Minnetonka, MN 55345

Dated: January 25_, 2011

__/e/ Matthew D. Swanson______
Matthew D. Swanson